



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Hon. I. Predecki  
County Auditor  
Galveston County  
Galveston, Texas

Dear Sir:

Opinion No. O-2235  
Re: Distribution of Re-  
vised Civil Statutes  
to Justices of the  
Peace

Your request for opinion has been received and carefully considered by this department. We quote from your letter of request as follows:

"A Justice of the Peace in this County has requested that he be furnished the Revised Civil and Criminal Statutes of Texas with amendments.

"Kindly give me your opinion if I am authorized to sign a warrant to furnish Justices of the Peace with the above mentioned statutes."

Article 4335, Revised Civil Statutes of Texas, reads as follows:

"The following officers shall be entitled to receive one copy of each of all general and special laws hereafter passed by the Legislature, to-wit: The Governor and heads of departments, each member of the Legislature, the judges of the several courts throughout the State, and the clerks of said courts, and each county attorney. The following officers shall

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be entitled to receive one copy each of all general laws hereafter passed by the Legislature, to-wit: county treasurer, county surveyor, sheriff, assessor of taxes, tax collector, inspector of hides and animals, justice of the peace, constable and county commissioner."

Article 4336, Revised Civil Statutes of Texas, reads as follows:

"The Secretary of State shall distribute the printed laws of each session of the Legislature to the officers named in the preceding article, as follows: He shall mail or deliver in person to the Governor and heads of departments, and to all State or District officers, a copy each, and shall forward to the county judge of each county a sufficient number of said laws to supply each county officer named in the preceding article with a copy."

Article 4338, Revised Civil Statutes of Texas, reads as follows:

"Whenever a revision of the laws of the State has been or shall be subscribed for, or published by the State, a sufficient number of copies of each volume thereof shall be forwarded to the county judge of each county to furnish one of said copies to each judge of the appellate and district courts, to each clerk of the district and county courts, and appellate courts, and to each justice of the peace that may be a resident in said county. The Secretary of State shall also deliver to each executive officer at the seat of government one of said copies."

Article 4339, Revised Civil Statutes of Texas, reads as follows:

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"Whenever any officer shall receive a copy of any report, statute, digest or journal, he shall receipt for the same to the officer distributing it, who shall file such receipt in his office. Said books shall be deemed to belong to the office of said officer to whom they are delivered, and shall, at all reasonable hours, be subject to the examination of any citizen of this State. If any said officer fails or refuses to deliver any said book to his successor in office when demanded by him, the officer so failing or refusing shall be liable to pay such successor the costs and charges that may be necessary to supply the office of such successor with any said book that he shall so fail or refuse to deliver."

Article 4341, Revised Civil Statutes of Texas, reads as follows:

"The Secretary of State shall not be required to forward copies of laws to nor attest the authority of any officer in this State who fails or refuses to take out his commission."

Articles 4335, 4336, 4338, 4339 and 4341, Revised Civil Statutes, supra, provide a clear and unambiguous statutory method for the distribution of the Revised Civil Statutes of this state to the officers mentioned in the statute. The Justice of the Peace is one of the officers named in the statute. As outlined by said statutes the volumes intended for the Justice of the Peace are delivered by the Secretary of State to the County Judge, and it is the statutory duty of the County Judge to deliver said volumes to the Justice of the Peace and take his receipt therefor. Said books shall be deemed to belong to the office of the Justice

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of the Peace when delivered to said officer. Article 4339, Revised Civil Statutes, supra, further provides that if any officer fails or refuses to deliver any of said books to his successor in office when demanded by him, the officer so failing or refusing shall be liable to pay such successor the costs and charges that may be necessary to supply the office of such successor with any said book that he shall so fail or refuse to deliver. It was the clear contemplation of said statutes that the county would not have to expend any county funds to secure the books or replace them if they were lost or destroyed.

We think that portion of Article 3899b, Revised Civil Statutes, which states "and such books and stationery as are necessary in the performance of their duties shall also be furnished Justices of the Peace by said Commissioners' Court" would not apply in this situation, because of the rule of statutory construction known as "Expressio unius est exclusio". We quote from Sutherland on Statutory Construction, Section 326, as follows:

"Where authority is given to do a particular thing, and the mode of doing it is prescribed, it is limited to be done in that mode; all other modes are excluded. Such affirmative legislation, and any other which introduces a new rule, imply a negative."

It is fundamental law, and the courts have repeatedly held that commissioners' courts are courts of limited jurisdiction, having no authority except such as is expressly or impliedly conferred by the Constitution and statutes.

It is the duty of the county auditor to see to the strict enforcement of the law governing county finances. Article 1651, Revised Civil Statutes. It is the duty of the county auditor to inquire into the correctness of accounts against the county. Article 1653, Revised Civil Statutes. Claims against a county cannot be allowed or paid without the approval of the

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county auditor. Article 1660, Revised Civil Statutes. Only lawful claims against a county may be approved by the county auditor. Article 1661, Revised Civil Statutes. The county auditor's bond is conditioned upon the faithful performance of his duties. Article 1649, Revised Civil Statutes.

In view of the above authorities you are respectfully advised that it is the opinion of this department that your question should be answered in the negative, and it is so answered.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Wm. J. Fanning*

Wm. J. Fanning  
Assistant

WJF:LW

APPROVED APR 25, 1940

*Gerald C. Mann*  
ATTORNEY GENERAL OF TEXAS

